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UNITED STATES DISTRICT COURT

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FOR THE CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES OF) Case No. CR 05-889-RSWL
11 AMERICA,)
12 Plaintiff,) ORDER RE: REDUCTION OF
13 v.) SENTENCE PURSUANT TO 18
14) U.S.C. § 3582(c)(2) FOR
15) DEFENDANT IRENE RAMIREZ
16) NUCAMENDI
17 IRENE RAMIREZ NUCAMENDI,)
18)
19 Defendant. _____
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22 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED,**
23 pursuant to 18 U.S.C. § 3582(c)(2) and § 1B1.10 of the
24 sentencing guidelines (as effective March 3, 2008),
25 that defendant's sentence shall be reduced from 70
months to 57 months.

26 **IT IS FURTHER ORDERED** that this Order shall be void
27 and without effect if, at any time prior to defendant's
28 release, either the Sentencing Commission or Congress
takes action that renders Amendment 706 to the
sentencing guidelines no longer retroactive in
application.

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1 The Court recognizes that, based on the applicable
2 case law, a hearing is not necessary in order to reduce
3 defendant's sentence under 18 U.S.C. § 3582(c)(2).
4 See, e.g., Anderson v. United States, 241 Fed. Appx.
5 625, 629 (11th Cir. July 18, 2007) (unpublished)
6 ("Under Federal Rule of Criminal Procedure 43(b)(4), a
7 defendant's presence at a § 3582(c) sentence correction
8 proceeding is not required") (emphasis in original);
9 United States v. Legree, 205 F.3d 724, 730 (4th Cir.
10 2000) ("a judge need not hold a hearing when
11 considering a Section 3582 motion"); United States v.
12 Tidwell, 178 F.3d 946, 949 (7th Cir. 1999) (same,
13 noting that "a proceeding under 18 U.S.C. § 3582(c) is
14 not a do-over of an original sentencing proceeding
15 where a defendant is cloaked in rights mandated by
16 statutory law and the Constitution"); United States v.
17 Whitebird, 55 F.3d 1007, 1011 (5th Cir. 1995) (limited
18 scope of a Section 3582 proceeding, which is "not a
19 second opportunity to present mitigating factors to the
20 sentencing judge" but "is simply a vehicle through
21 which appropriately sentenced prisoners can urge the
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1 court to exercise leniency to give certain defendants
2 the benefits of an amendment to the Guidelines").
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4 **IS SO ORDERED.**

Ronald S.W. Lew

5 **HONORABLE RONALD S.W. LEW**

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7 Senior, U.S. District Court Judge
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11 DATE: April 30, 2008
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